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इस भाग में भिन्न छठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 2nd June, 1984/Jyaistha 12, 1906 (Saka)

The following Act of Parliament received the assent of the President on the 2nd June, 1984, and is hereby published for general information:—

THE DELHI MUNICIPAL CORPORATION (AMENDMENT ACT, 1984

No. 42 OF 1984

[2nd June, 1984.]

An Act further to amend the Delhi Municipal Corporation Act, 1957.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Delhi Municipal Corporation (Amendment) Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. In section 2 of the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as the principal Act), after clause (1), the following clause shall be inserted, namely:—

“(1A) “Appellate Tribunal” means an Appellate Tribunal constituted under section 347A;”.

3. In section 343 of the principal Act,—

(a) in sub-section (2), for the words “the court of the district judge of Delhi”, the words “the Appellate Tribunal” shall be substituted;

(b) in sub-section (3),—

(i) in the opening portion, for the words “the court of the district judge may”, the words, brackets, figures and letter “the

Short title and commencement.

Amendment of section 2.

Amendment of section 343.

Appellate Tribunal may, subject to the provisions of sub-section (3) of section 347C," shall be substituted;

(v) in the proviso, for the words "the court of the district judge unless security, sufficient in the opinion of the court", the words "the Appellate Tribunal unless security, sufficient in the opinion of the said Tribunal" shall be substituted;

(c) in sub-section (4), for the words "Save as provided in this section, no court", the words "No court" shall be substituted;

(d) in sub-section (5), for the words "Every order made by the court of the district judge on appeal and subject only to such order", the words, figures and letter "Subject to an order made by the Administrator on appeal under section 347D, every order made by the Appellate Tribunal on appeal under this section, and subject to the orders of the Administrator and the Appellate Tribunal on appeal" shall be substituted;

(e) in sub-section (6)—

(i) for the words "has been confirmed on appeal, whether with or without variation", the words "has been confirmed on appeal, whether with or without variation, by the Appellate Tribunal in a case where no appeal has been preferred against the order of the Appellate Tribunal, and by the Administrator in a case where an appeal has been preferred against the order of the Appellate Tribunal" shall be substituted;

(ii) for the words "the court of the district judge", the words "the Appellate Tribunal or the Administrator" shall be substituted.

Amend-
ment of
section
344.

4. In section 344 of the principal Act,—

(a) in sub-section (2), after the words "from the premises", the words "or to seize any construction material, tool, machinery, scaffolding or other things used in the erection of any building or execution of any work" shall be inserted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Any of the things caused to be seized by the Commissioner under sub-section (2) shall be disposed of by him in the manner specified in section 326."

Amend-
ment of
section
345.

5. In section 345 of the principal Act, in sub-section (1), for the words "within three months after the completion thereof, by a written notice", the words "after the completion thereof, by a written notice of not less than seven days" shall be substituted.

Insertion
of new
section
345A.

6. After section 345 of the principal Act, the following section shall be inserted, namely:—

Power
to seal
unautho-
rised
cons-
tructions.

"345A. (1) It shall be lawful for the Commissioner, at any time, before or after making an order of demolition under section 343 or of the stoppage of the erection of any building or execution of any work under section 343 or under section 344, to make an order directing the sealing of such erection or work or of the premises in which such erection or work is being carried on or has been com-

pleted in the manner prescribed by rules, for the purpose of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such erection or work.

(2) Where any erection or work or any premises in which any erection or work is being carried on, has or have been sealed, the Commissioner may, for the purpose of demolishing such erection or work in accordance with the provisions of this Act, order such seal to be removed.

(3) No person shall remove such seal except—

(a) under an order made by the Commissioner under subsection (2); or

(b) under an order of an Appellate Tribunal or the Administrator, made in an appeal under this Act.”

7. After section 347 of the principal Act, the following sections shall be inserted, namely:—

Insertion
of new
sections
347A to
347E.

“347A. (1) The Central Government shall, by notification in the Official Gazette, constitute one or more Appellate Tribunals with headquarters at Delhi, for deciding appeals preferred under section 343 or section 347B.

Appel-
late
Tribunal.

(2) An Appellate Tribunal shall consist of one person to be appointed by the Central Government on such terms and conditions of service as may be prescribed by rules.

(3) A person shall not be qualified for appointment as the presiding officer of an Appellate Tribunal unless he is, or has been, a district judge or an additional district judge or has, for at least ten years, held a judicial office in India.

(4) The Central Government may, if it so thinks fit, appoint one or more persons having special knowledge of, or experience in, the matters involved in such appeals, to act as assessors to advise the Appellate Tribunal in the proceedings before it, but no advice of the assessors shall be binding on the Appellate Tribunal.

(5) The Central Government shall, by notification in the Official Gazette, define the territorial limits within which an Appellate Tribunal shall exercise its jurisdiction, and where different Appellate Tribunals have jurisdiction over the same territorial limits, the Central Government shall also provide for the distribution and allocation of work to be performed by such Tribunals.

(6) For the purpose of enabling it to discharge its functions under this Act, every Appellate Tribunal shall have a Registrar and such other staff on such terms and conditions of service as may be prescribed by rules:

Provided that the Registrar and staff may be employed jointly for all or any number of such Tribunals in accordance with the rules.

Appeals
against
certain
orders
or
notices
issued
under
the Act.

347B. (1) Any person aggrieved by any of the following orders made or notices issued under this Act, may prefer an appeal against such order or notice to the Appellate Tribunal, namely:—

(a) an order according or disallowing sanction to a lay-out plan under section 313;

(b) an order directing the alteration or demolition of any street under section 314;

(c) a notice under sub-section (1) of section 315;

(d) a notice under sub-section (2) of section 317;

(e) an order directing the disposal of things removed under Chapter XV or seized under section 344, or an order rejecting the claim of any person for the balance of the proceeds of sale of the things so disposed of;

(f) an order sanctioning or refusing to sanction the erection of any building or the execution of any work under section 336;

(g) an order withholding sanction under the proviso to sub-section (1) of section 337;

(h) an order cancelling a sanction under section 338;

(i) an order requiring the rounding off, splaying or cutting off the height of a building intended to be erected, or for the acquisition of any portion of a site, under section 339;

(j) an order disallowing the erection of any building or the execution of any work under section 340;

(k) an order requiring the stoppage of any erection or work under section 344;

(l) an order requiring the alteration of any building or work under section 345;

(m) an order directing the sealing of unauthorised constructions under section 345A;

(n) an order refusing to grant permission under sub-section (2) of section 346;

(o) an order granting or refusing permission under section 347;

(p) any such other order or notice relating to or arising out of planned development under the provisions of this Act as may be prescribed by rules.

(2) An appeal under this section shall be filed within thirty days from the date of the order or notice appealed against:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) An appeal to the Appellate Tribunal shall be made in such form and shall be accompanied by a copy of the order or notice appealed against and by such fees as may be prescribed by rules.

347C. (1) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order or notice appealed against or may refer the case back to the authority or officer against whose order or notice the appeal is filed, for a fresh order or notice, after taking additional evidence, if necessary, or such other action as the Appellate Tribunal may specify.

(2) The Appellate Tribunal shall send a copy of every order passed by it to the parties to the appeal.

(3) No Appellate Tribunal shall, in any appeal pending before it in respect of any order or notice under this Act, make an interim order (whether by way of injunction or stay) against the Corporation or against any officer or servant of the Corporation acting or purporting to act in his official capacity, unless an opportunity is given to the Corporation or its officer or servant to be heard in the matter:

Provided that the Appellate Tribunal may without giving an opportunity as aforesaid make an interim order as an exceptional measure if it is satisfied for reasons to be recorded by it in writing that it is necessary so to do for preventing any loss being caused to the person filing the appeal which cannot be adequately compensated in money:

Provided further that every such interim order shall, if it is not vacated earlier, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless before the expiry of that period, the Appellate Tribunal confirms or modifies that order after giving to the Corporation or its officer or servant an opportunity of being heard.

(4) Subject to rules that may be made by the Central Government in this behalf, the awarding of damages in and the costs of, and incidental to, any appeal before an Appellate Tribunal, shall be in its discretion and it shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such damages or costs are to be paid and to give, in its order disposing of an appeal, necessary directions for the purposes aforesaid.

(5) An order of the Appellate Tribunal made under this section may be executed or caused to be executed by it on the application of the person in whose favour the order has been made.

(6) In hearing and deciding an appeal or in the execution of an order, an Appellate Tribunal shall follow such procedure as may be prescribed by rules.

(7) Every Appellate Tribunal, shall, in addition to the powers conferred on it under this Act, have the same powers as are vested

in a Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of persons and examining them on oath;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter which may be prescribed by rules, and every proceeding of an Appellate Tribunal in hearing or deciding an appeal or in connection with the execution of its order, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code, and every Appellate Tribunal shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

Appeal
against
orders
of Ap-
pellate
Tribunal.

347D. (1) An appeal shall lie to the Administrator against an order of the Appellate Tribunal, made in an appeal under section 343 or section 347B, confirming, modifying or annulling an order made or notice issued under this Act.

(2) The provisions of sub-sections (2) and (3) of section 347B and section 347C and the rules made thereunder, shall, so far as may be, apply to the filing and disposal of an appeal under this section as they apply to the filing and disposal of an appeal under those sections.

(3) An order of the Administrator on an appeal under this section, and subject only to such order, an order of the Appellate Tribunal under section 347B, and subject to such orders of the Administrator or an Appellate Tribunal, an order or notice referred to in sub-section (1) of that section, shall be final.

Bar of
jurisdic-
tion of
courts.

347E. (1) After the commencement of section 7 of the Delhi Municipal Corporation (Amendment) Act, 1984, no court shall entertain any suit, application or other proceedings in respect of any order or notice appealable under section 343 or section 347B and no such order or notice shall be called in question otherwise than by preferring an appeal under those sections.

(2) Notwithstanding anything contained in sub-section (1), every suit, application or other proceeding pending in any court immediately before the commencement of section 7 of the Delhi Municipal Corporation (Amendment) Act, 1984, in respect of any order or notice appealable under section 343 or section 347B, shall continue to be dealt with and disposed of by that court as if the said section had not been brought into force.”

8. In section 452 of the principal Act, in sub-section (1), for the words "refer the case for determination to the court of the district judge of Delhi.", the following shall be substituted, namely :—

Amend-
ment of
section
452.

"refer the case for determination—

(a) to the Appellate Tribunal, if such demand relates to the expenses incurred in taking necessary action or steps for the completion of any act or work required to be done or executed in the event of non-compliance with any notice, order or requisition under sections 317, 325, 343, 344 and 345;

(b) to the court of the district judge of Delhi, in any other case."

9. In section 456 of the principal Act,—

Amend-
ment of
section
456.

(a) in sub-section (1), for the portion beginning with the words "complying with any provision" and ending with the words "such application is made", the following shall be substituted, namely:—

"complying with—

(a) the provisions of section 317, section 325, section 343, section 344, section 345 or section 347 or any bye-law made thereunder or with any notice or order issued under any such provision, apply to the Appellate Tribunal; and

(b) any other provision or any bye-law made thereunder or with any notice, order or requisition issued under such provision, apply to the court of the district judge of Delhi,

and where such application is made".

(b) in sub-section (2), for the words "The court", the words "The Appellate Tribunal or the court, as the case may be" shall be substituted.

10. Section 461 of the principal Act shall be re-numbered as sub-section (1) thereof, and alter sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

Amend-
ment of
section
461.

"(2) Notwithstanding anything contained in sub-section (1), whoever contravenes the provisions of sub-section (1) of section 317 or sub-section (1) of section 320 or sub-section (1) of section 321 or sub-section (1) of section 325 or section 339, in relation to any street which is a public street, shall be punishable with simple imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both."

11. After section 466 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new
section
466A.
Certain
offences
to be
cognizable.

"466A. The Code of Criminal Procedure, 1973, shall apply to,—

(a) an offence under sub-section (5) of section 313 or section 332 or sub-section (1) of section 333 or sub-section (1) of section 334 or section 343 or section 344 or section 345 or section 347;

(b) an offence under sub-section (1) of section 317 or sub-section (1) of section 320 or sub-section (1) of section 321 or sub-section (1) of section 325 or section 339 in relation to any street which is a public street,
as if it were a cognizable offence—

- (i) for the purposes of investigation of such offence; and
- (ii) for the purposes of all matters other than—

(1) matters referred to in section 42 of that Code, and

(2) arrest of a person, except on the complaint of, or upon information received from, such officer of the Corporation, not being below the rank of a Deputy Commissioner, as may be appointed by the Administrator:

Provided that no offence of the contravention of any condition subject to which sanction was accorded for the erection of any building or the execution of any work shall be cognizable, if such contravention relates to any deviation from any plan of such erection or execution sanctioned by the Commissioner which is compoundable on payment of an amount under the bye-laws relating to buildings made under this Act”.

Substitution of new section for section 467.

12. For section 467 of the principal Act, the following section shall be substituted, namely:—

Prosecutions.

“467. Save as otherwise provided in this Act, no court shall proceed to the trial of any offence,—

(a) under sub-section (5) of section 313 or section 332 or sub-section (1) of section 333 or sub-section (1) of section 334 or section 343 or section 344 or section 345 or section 347, except on the complaint of, or upon information received from, such officer of the Corporation, not being below the rank of a Deputy Commissioner, as may be appointed by the Administrator;

(b) under sub-section (1) of section 317 or sub-section (1) of section 320 or sub-section (1) of section 321 or sub-section (1) of section 325 or section 339, if any such offence was committed in relation to any street which is a public street, except on the complaint of, or upon information received from, such officer of the Corporation, not being below the rank of a Deputy Commissioner, as may be appointed by the Administrator;

(c) other than those specified in clauses (a) and (b), except on the complaint of, or upon information received from, any of the following appropriate municipal authorities, that is to say, the Commissioner, the General Manager (Electricity) or a person authorised by any of them by a general or special order in this behalf.”.

Amendment of Twelfth Schedule.

13. In the Twelfth Schedule to the principal Act,—

(a) against section 313, sub-section (5), in the third column, for the letters and figures “Rs. 500”, the words “Rigorous imprisonment which may extend to three years” shall be substituted, and the existing entry in the fourth column shall be omitted;

(b) against section 332, in the third column, for the letters and figures "Rs. 1,000", the words, letters and figures "Simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000 or with both" shall be substituted, and the existing entry in the fourth column shall be omitted;

(c) against section 333, sub-section (1), in the third column, for the letters and figures "Rs. 100", the words, letters and figures "Simple imprisonment which may extend to six months, or with fine which may extend to Rs. 5,000 or with both" shall be substituted;

(d) against section 334, sub-section (1), in the third column, for the letters and figures "Rs. 100", the words, letters and figures "Simple imprisonment which may extend to six months, or with fine which may extend to Rs. 5,000 or with both" shall be substituted;

(e) against section 343, in the third column, for the letters and figures "Rs. 1,000", the words, letters and figures "Simple imprisonment which may extend to six months, or with fine which may extend to Rs. 5,000 or with both" shall be substituted, and the existing entry in the fourth column shall be omitted;

(f) against section 344, in the third column, for the letters and figures "Rs. 1,000", the words, letters and figures "Simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000 or with both" shall be substituted;

(g) against section 345, in the third column, for the letters and figures "Rs. 500", the words, letters and figures "Simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000 or with both" shall be substituted;

(h) against section 347, in the third column, for the letters and figures "Rs. 500", the words, letters and figures "Simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000 or with both" shall be substituted, and the existing entry in the fourth column shall be omitted.

S. RAMAIAH.

Addl. Secy. to the Govt. of India

